

REMARKS

Claims 36 and 38-70 are now present in this application.

Claims 36 and 38 have been amended. Reconsideration of the application, as amended, is respectfully requested.

Claims 36, 38-42, 44-45, 48 and 56 stand rejected under 35 USC 102(b) as being anticipated by AKTIEBOLAGET, WO 93/16663. This rejection is respectfully traversed.

Claims 36 and 38-41 stand rejected under 35 USC 102(b) as being anticipated by MILLER, U.S. Patent 2,382,019. This rejection is respectfully traversed.

Applicants gratefully acknowledge that the Examiner considers claims 43, 46, 47, 49-55 and 57-70 to contain allowable subject matter. However, as will be set forth below, it is respectfully submitted that all claims now in the instant application should be in condition for allowance.

In particular, the patent to AKTIEBOLAGET discloses a fixture comprising a proximal first part 2 of a first diameter being smaller than said first diameter. The Examiner seems to suggest that the distal end of the first part 2 is provided with a tapered section. Even if this would be the case, there is a clear step between the first and second parts. As disclosed in the present application, this step may induce stresses in the bone as discussed, for example, on page 2, lines 1-5.

Because of this step from one part to the other, the diameter of the distal end of any alleged connecting section cannot possible correspond to the diameter of the distal second part 1. The AKTIEBOLAGET document would fail to disclose a tapering connection section having diameters which correspond to the diameters of the first and second sections, respectively, as set forth in amended claim 36.

It is noted that dependent claim 40 basically defines the added feature relating to corresponding the diameters. In other words, the connecting section at one end has a base diameter essentially equal to the first diameter of said first cylindrical section and, at the other end, has a top diameter essentially equal to said second diameter of said second cylindrical section. It is respectfully submitted that the Examiner's position that this dependent claim would be rejected by the AKTIEBOLAGET reference would also be incorrect.

It is noted that the AKTIEBOLAGET document does not address the problem with stress in the bone caused by the step between the first and second cylindrical sections. There is nothing in this document which would encourage a skilled person to modify the configuration of the fixture so as to contain a tapered connecting section as set forth in claim 36. It is respectfully submitted that the AKTIEBOLAGET would neither suggest nor render obvious the claimed fixture. None of the prior art utilized by the Examiner identifies drawbacks related to step transition.

Turning to the patent to MILLER, a compound screw is described. This screw is adapted to be driven into non-bored wooden material. In attaching the screw, a conoidal terminal of the screw is placed upon the surface of the wood material and then driven therein by means of hammerblows until the threads begin to enter the wood. Thus, this screw is neither an orthopaedic fixture, nor would it be suitable for orthopaedic use. In claim 36, a ball carrying portion is defined which is clearly lacking in the MILLER reference. The screw head in the MILLER reference is not a ball carrying portion.

The MILLER reference is not in any way suitable for use with orthopaedic prothesis, e.g., there is no indication of how any prosthetic part should be attached to the compound screw. The compound screw is aimed to be used with non-bored wood material, while the orthopaedic feature defined in amended claim 36 would be aimed to be used with pre-bored organic bone tissue. One skilled in the art would recognize a difference and not attempt to utilize the MILLER device. For example, in U.S. Patent 5,259,398 to VRESPRA, column 1, lines 18-29 explains that bones screws made in biocompatible material require a previously drilled cylindrical hole before insertion in the bone. While claim 36 itself does not claim a pre-drilled hole, it does recite that the fixture is an orthopaedic fixture. Clearly, the MILLER reference is not such a fixture. These are two distinctly different applications and two distinctly different technical areas.

Furthermore, an orthopaedic fixture as defined in claim 36 is arranged to be permanently anchored in bone tissue. It is furthermore highly questioned whether a compound screw driven into a wooden material is itself made of material that is biocompatible with the human body. An orthopaedic feature suggests at least some extend of biocompatibility. In amended claim 26, the orthopaedic feature comprises an intraosseous anchoring system. This compound screw has no such intraosseous anchoring system.

It is respectfully submitted that the MILLER reference would neither suggest nor render obvious the fixture set forth in independent claim 36 of the present application, as well as its dependent claims. Accordingly, it is respectfully requested that all 35 USC 102(b) rejections now be reconsidered and withdrawn.

Favorable reconsideration and an early Notice of Allowance are earnestly solicited.

In the event the Examiner does not consider this application to be in condition for allowance, it is respectfully requested that this Amendment be entered for the purposes of Appeal. This Amendment should overcome the current grounds of rejection and therefore simplify the issues for Appeal. Nonetheless, it should be unnecessary to proceed to Appeal because the instant application should now be in condition for allowance.

In the event that any outstanding matters remain in this application, the Examiner is invited to contact the undersigned at (703) 205-8000 in the Washington, D.C. area.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), the Applicants respectfully petition for a one (1) month extension of time for filing a response in connection with the present application and the required fee of \$110.00 is attached herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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Attachment(s)